

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

LUIS E. PONCE-MELENDRÉS,  
Plaintiff,

V.

CORRECTIONAL OFFICER DONOHUE,  
Badge #303, CORRECTIONAL SERGEANT  
COLBY, and COUNTY OF ORANGE,  
Defendants.

SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #:  
DATE FILED: 12/13/21

## ORDER

20 CV 7710 (VB)

By Order dated November 4, 2021, the Court set out the procedural history of this case, noting that despite several attempts to contact plaintiff, including setting a status conference for that same date and for which plaintiff failed to appear, the Court had no contact from plaintiff since October 27, 2020 (Doc. #4). (Doc. #25). The November 4 Order also warned plaintiff in bold and underlined typeface that this case would be dismissed unless, by December 6, 2021, plaintiff updated the Court in writing as to his current address, and that failure to comply with the Court’s Order would result in dismissal of the action pursuant to Fed. R. Civ. P. 41(b) for failure to prosecute or comply with Court Orders. (*Id.*).

To date, the Court has not received any submission from plaintiff. Since entering the November 4 Order, it has, however, received two pieces of returned mail—a scheduling order (Doc. #22) and a memorandum endorsed letter (Doc. #24)—that Chambers had mailed to plaintiff at the address on the docket. The returned scheduling order was labeled “Return to Sender – Released 3/26,” and the returned memorandum endorsed letter stated, “Return to Sender, Not Deliverable as Addressed, Unable to Forward.”

Accordingly, having considered all of the factors set forth in Lucas v. Miles, 84 F.3d 532 (2d Cir. 1996), the Court dismisses this case pursuant to Fed. R. Civ. P. 41(b).

The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this Order would not be taken in good faith, and therefore in forma pauperis status is denied for the purposes of an appeal. Cf. Coppedge v. United States, 369 U.S. 438, 444–45 (1962).

The December 22, 2021, conference is cancelled. All pending motions are moot.

Chambers will mail a copy of this Order to plaintiff at the address on the docket.

The Clerk is instructed to terminate the motion (Doc. #16) and close this case.

Dated: December 13, 2021  
White Plains, NY

SO ORDERED:



Vincent L. Briccetti  
United States District Judge